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1835 16th Street, N.W.
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September 24, 2008

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 6021: New Information in Support of the Complaint and Indicating Criminal Misconduct in Connection with Democratic Party Challenges to Candidate Nominating Petitions in the 2004 and 2006 General Elections

To the Commission:

I write on behalf of my client, consumer advocate and 2004 Independent presidential candidate Ralph Nader, to notify the Commission of new information relevant to Matter Under Review (MUR) 6021, which is not included in the Complaint that Mr. Nader filed on May 30, 2008. The information arises from a Grand Jury Presentment that Pennsylvania Attorney General Tom Corbett released on July 10, 2008 (enclosed as "Exhibit A"), when his office filed charges of criminal conspiracy, theft and conflict of interest against 12 current or former members and employees of the Pennsylvania House Democratic Caucus, including former Minority Whip Mike Veon and former Chief of Staff to Majority Leader H. William "Bill" DeWeese Michael Manzo. In a press release announcing the charges, Attorney General Corbett states that they arise from "the illegal use of millions of dollars in taxpayers' funds, resources and state employees for political campaign purposes." See PRESS RELEASE, "Attorney General Corbett Announces Charges in Legislative Bonus Investigation" at 1 (July 10, 2008) (enclosed as "Exhibit B").

Respondents' challenge to the Nader-Camejo 2004 Pennsylvania nomination papers is chief among the political campaign purposes for which taxpayer funds and resources were allegedly misappropriated. Presentment at 54-58. The 75-page Grand Jury Presentment includes an entire section entitled "Nader Petition Challenge", which describes how "a veritable army" of state employees dedicated "a staggering number of man-hours" to the challenge - all on taxpayer time, using taxpayer resources and at taxpayer expense. Presentment at 55-56. The Grand Jury also found that the challenge was specifically intended to benefit Respondent Kerry-Edwards 2004, Inc. Presentment at 55-56. The Presentment therefore directly supports the allegations in the Complaint that the value of the legal services rendered and all expenditures made in connection with Respondents' challenges to Nader-Camejo 2004 nomination papers constitutes an unlawful and unreported contribution to Respondent Kerry-Edwards 2004, Inc., in violation of the Federal Election Campaign Act of 1971 ("FECA" or "the Act"). Complaint at 5-6, ¶¶ 270-87. As set forth more fully below, the Presentment also indicates that certain Respondents and other parties may have committed additional,

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knowing and willful violations of the Act and engaged in other criminal misconduct. Accordingly, Mr. Nader respectfully requests that the Commission:

- 1) Name as Respondents in MUR 6021 current or former Pennsylvania House Democratic Caucus leaders or supervisors Scott Brubaker, Jennifer Brubaker, Brett Cott, Bill DeWeese, Jeff Foreman, Michael Manzo, Rachel Manzo, Earl Mosley, Anna Marie Perretta-Rosepink and Mike Veon;¹
- 2) Investigate the information and materials enclosed herewith to determine whether Respondents committed civil violations of FECA, as set forth in the Complaint in MUR 6021;
- 3) Refer MUR 6021, together with the information and materials enclosed herewith, to the United States Department of Justice for further investigation to determine whether certain Respondents or any other parties committed criminal violations of federal law.

In addition to its section devoted to the "Nader Petition Challenge", the Presentment includes a section entitled "Romanelli Petition Challenge", which states that the "effort to prevent Carl Romanelli from appearing on the ballot as an Independent [sic] candidate for United States Senator [in 2006] was disturbingly similar to the Nader effort, in scope, methodology, and misappropriation of taxpayer-funded resources." Presentment at 58. The Grand Jury specifically found that the goal of this challenge "once again...was to enhance the electability of the Democratic nominee, Robert Casey, by winnowing from the Election Day field a challenger whose vote tally would likely come at the expense of the Democratic candidate." Presentment at 58. The Presentment therefore indicates, together with the other information and materials set forth herein, that parties who prepared and filed the challenge to Mr. Romanelli's nomination papers during the 2006 general election may have committed civil violations of federal law similar in nature to those set forth in the Complaint in MUR 6021, as well as criminal violations as set forth more fully below. Accordingly, either in connection with MUR 6021, or pursuant to a new Matter Under Review, Mr. Nader requests that the Commission:

- 1) Name as Respondents Senator Robert Casey, Jr.; Bob Casey for Senate, Inc.; the Pennsylvania Democratic Party; current or former Pennsylvania House Democratic Caucus leaders or supervisors Scott Brubaker, Jennifer Brubaker, Brett Cott, Bill DeWeese, Jeff Foreman, Michael Manzo, Rachel Manzo, Earl Mosley, Anna Marie Perretta-Rosepink and Mike Veon and any other such individuals who misappropriated taxpayer funds and resources for the benefit of Robert Casey, Jr. or Bob Casey for Senate, Inc.; Thorp, Reed & Armstrong,

¹ The addresses of the above-named Respondents are as follows: Scott Brubaker, 24 N. 20th St., Camp Hill, PA, 17011; Jennifer Brubaker, 24 N. 20th St., Camp Hill, PA, 17011; Brett Cott, Bill DeWeese, Jeff Foreman, Michael Manzo, Earl Mosley, Rachel Manzo, Anna-Marie Perretta-Rosepink, Mike Veon, | |

LLP; and Thorp, Reed & Armstrong attorneys Clifford B. Levine, Alice B. Mitinger and Shawn N. Gallagher;²

- 2) Investigate the information and materials enclosed herewith to determine whether the above-named Respondents committed civil violations of FECA in connection with the challenge to the nomination papers of Carl Romanelli as a candidate for United States Senate during the 2006 general election;
- 3) Refer this matter to the United States Department of Justice for further investigation to determine whether certain Respondents or any other parties committed criminal violations of federal law in connection with the challenge to the nomination papers of Carl Romanelli as a candidate for United States Senate during the 2006 general election.

Background of MUR 6021

On May 30, 2008, Mr. Nader filed a Complaint with the Commission alleging that Respondents, including the Democratic National Committee (DNC), Kerry for President 2004, Inc., 18 state or local Democratic Parties, 53 law firms and several Section 527 political organizations unlawfully conspired to prevent Mr. Nader and his running mate, Peter Miguel Camejo, from participating as qualified candidates in the 2004 presidential election by bankrupting their campaign and otherwise interfering with their effort to access state ballots. On June 5, 2008, the Commission acknowledge receipt of the Complaint and numbered the matter MUR 6021. The Complaint alleges, *inter alia*, that Respondents initiated or materially supported litigation to challenge Nader-Camejo nomination papers in 18 states as part of a coordinated nationwide effort to deny voters the choice of voting for Mr. Nader and Mr. Camejo. In the course of these actions, the Complaint alleges, Respondents made millions of dollars' worth of unlawful and unreported contributions and expenditures to benefit Respondent Kerry for President 2004, Inc.

The Pennsylvania Grand Jury Presentment

On July 10, 2008, pursuant to an ongoing Grand Jury investigation into public corruption, Pennsylvania Attorney General Tom Corbett charged 12 members or employees of the Pennsylvania House Democratic Caucus with numerous counts of criminal conspiracy, theft and conflict of interest arising from a wide-ranging conspiracy to misappropriate public funds for political campaign purposes, which Caucus leaders and supervisors allegedly orchestrated, and which dozens of Caucus employees allegedly joined. See Exhibit B. The 75-page Grand Jury Presentment released in conjunction with

² The addresses of the above-named Respondents are as follows: Senator Robert Casey, Jr., 383 Russell Senate Office Building, Washington, D.C. 20510; Bob Casey for Senate, 607 14th St., N.W., Suite 800, Washington, DC 20005; Pennsylvania Democratic Party, 300 N. 2nd St., 8th Floor, Harrisburg, PA 17101; Thorp, Reed & Armstrong attorneys Clifford B. Levine, Alice B. Mitinger and Shawn N. Gallagher, One Oxford Centre, 301 Grant St., 14th Floor, Pittsburgh, PA, 15219. See *supra* note 1 for addresses of individual Pennsylvania House Democratic Caucus Respondents.

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the charges describes "a concerted pattern of illegal conduct in which millions of dollars in taxpayer funds and resources were misdirected to campaign efforts." Presentment at 1. Chief among such campaign efforts was the challenge that Respondents filed to the Nader-Camejo 2004 Pennsylvania nomination papers. Presentment at 54-58; Complaint ¶¶ 270-87.

Under the heading "Nader Petition Challenge", the Presentment sets forth detailed findings regarding the misappropriation of taxpayer funds and resources by parties that prepared and filed Respondents' Pennsylvania challenge. Presentment at 54-58; Complaint ¶¶ 270-87. Under the heading "Romanelli Petition Challenge", the Presentment sets forth similar findings with respect to the challenge filed against the nomination papers of Carl Romanelli during the 2006 general election. Presentment at 58-59. The Presentment is enclosed herewith in its entirety, but as a convenience to the Commission, the specific findings most relevant to MUR 6021 and to the Romanelli nomination petition challenge are excerpted as follows:

Over the course of a number of years, former Representative Mike Veon and others, some named herein and others yet un-named, engaged in a concerted pattern of illegal conduct in which millions of dollars in taxpayer funds and resources were misdirected to campaign efforts. Presentment at 1.

Many...former staffers/employees provided sworn testimony before the Grand Jury, wherein they described a consistent culture of employing taxpayer funding and resources for campaign purposes. Campaign work was simply expected as part of one's employment.... Presentment at 2.

Michael Manzo, chief of staff to the Minority Leader of the House Democratic Caucus [DeWeese], ...acted directly in concert with Veon's illegal use of taxpayer funds and resources. Presentment at 2.

[T]he award of bonuses was but a single facet of the concerted effort to employ taxpayer funds and resources for campaign purposes. The actual diversion of resources and employees to campaigns and political endeavors was of no less prominence. The subversion of taxpayer funds and resources was extensive and ranged from the obvious – directing public employees to conduct campaign work while paid by the taxpayers, to the subtle – issuing taxpayer paid contracts for campaign work disguised as legitimate legislative work. Presentment at 3.

It was clearly understood by all these employees that the campaign work in question was part of their public employment and not something to relegate to after work hours or personal time. ...[T]he "volunteer" list was specifically designed to act as the foundation for an "incentive" structure to entice Caucus employees to commit greater efforts and time on political endeavors and campaigns. Presentment at 4.

This 2004 "volunteer" list chronicled the efforts of 458 Caucus employees who worked on campaigns or political endeavors. There is not a single entry on this list, or any of the subsequent lists over the following years, for legitimate legislative work or constituent service. Indeed...such work was completely irrelevant to the purpose of the list, or to those who directed its employment. Presentment at 5.

[W]hile there were many elections at play in any given election year, only selected "volunteer" efforts would be tracked on the list. Veon and Manzo were the primary directors of those efforts worthy of notation on the list. ...[T]his was designed to control and specifically direct the "volunteer" efforts to those endeavors deemed most important. ...[E]mails regularly sent from Manzo/Veon and/or the House Democratic Campaign Committee, ask[ed] for volunteers on the specific endeavors and direct[ed] those Volunteers to coordinate and report their efforts through [state employee] Eric Webb. In this manner, it would become clear to Caucus employees which political endeavors and campaign work were likely to result in an incentive. Presentment at 5.

Following the 2004 general election in November...Webb and many others received bonus checks and it became very clear that the people on the list had, indeed, been rewarded. Presentment at 5.

In a series of emails commencing on November 22, 2004, entitled "Caucus Bonus"... Veon specifically points out that the Caucus bonuses in question are not the Christmas bonuses and are to award those who performed extra work on campaign efforts. Presentment at 5-6.

In another series of emails...Manzo, under the subject "bonus", writes to Mike Veon, [Veon staffer] Brett Cott and [chief counsel to House Democratic Whip] Jeff Foreman:

"This is a comprehensive list of suggested year end bonuses. It is a compellation of thoughts between Jeff, Brett and I and is based upon several factors.

1. Performance during session (sine die, gaming, budget, etc.)
2. Outside activities (specials, general, *Nader effort*)."

Presentment at 6 (emphasis added).

[A]fter election day on November 2, 2004, Eric Webb was asked by Mike Manzo, to forward, from his volunteer list, the names of those who had provided the most valuable assistance on campaigns. Eric Webb prepared a table of those he described as "superstars" and forwarded it to Manzo and Veon. This table listed: the name of each individual; the office to which they were assigned in the caucus; supervisors; whether they went on leave without

pay for campaign purposes; the number of days they worked on political endeavors and campaigns; the dates that they worked on political endeavors or campaigns; whether they worked on the 109th special election; whether they conducted opposition research; whether they circulated petitions for selected democratic candidates; *whether they assisted on the challenge of Ralph Nader's petitions to be placed on the Pennsylvania ballot for the Presidential election*; whether they worked on post election issues; and, whether they contributed to the William DeWeese campaign committee or the House Democratic Campaign Committee. Eric Webb submitted 88 "superstars" in this table. Subsequently, a number of other names were added, such as those individuals who worked in Veon's Harrisburg and district offices. Presentment at 7 (emphasis added).

The vast majority of the bonus checks, issued for campaign work, were delivered from the Pennsylvania Treasury...on or about December 16, 2004. ... A total of \$188,800.00 in taxpayer funded bonuses was issued to these individuals as a reward for the conduct of political endeavors and campaign work. Presentment at 8.

[A memo from Mr. DeWeese and Mr. Veon to bonus recipients dated September 27, 2005 states] *"we cannot stress strongly enough the need for you not to discuss this with any other staff person or Member."* Presentment at 12 (emphasis in original).

Many Caucus employees testified about the alarm that spread through the Caucus following the public disclosure of the bonuses [on January 27, 2007]. Webb...received an email from [director of staffing and administration for the House Democratic Caucus] Scott Brubaker asking him to come to Brubaker's office. When Webb arrived, Brubaker asked him if he still had the list information. When Webb responded in the affirmative, Brubaker told him to "get rid of it because there may be discovery." Brubaker wasn't the only one to approach Webb about the list. He testified that [executive director of the House Democratic Policy Committee] Rachel Manzo also advised him to do as she had and get rid of the list. Webb did attempt to delete and destroy his copies of the list. However, agents of the Office of Attorney General's Computer Forensics Unit were able to successfully recover the lists. Presentment at 26.

The campaign benefits derived from the bonus "incentive scheme", by no means constituted the only illegal use of taxpayer resources for campaign purposes. The Grand Jury found a great many other acts, schemes and attempts to use taxpayer resources for illegal purposes. Presentment at 26.

Every former member of Mike Veon's capitol office, who testified before the Grand Jury, identified a culture wherein no distinction was made between campaign and legislative work. Karen Steiner testified that it was clear "from

the interview on" that campaign work would be part of your job. Melissa Lewis testified that employees were simply required to help on campaign work. She stated that the culture was to use the state to pay for as much campaign work as possible. ... Consistent with the above descriptions, the Grand Jury has discovered and reviewed an extraordinary history, dating back many years, of consistent abuses of taxpayer resources by Representative Veon and his staff. Presentment at 28.

[T]here was no separation between legislative and campaign work. Presentment at 29.

[I]n 2004 and 2005, there was no effort to...separate the hours spent on campaign work or to take time off from legislative pay for those hours. Presentment at 30.

In 2006, Foreman began to require the Veon office employees to keep track of some leave time, however, Veon did not make this change for altruistic reasons. As Foreman explained to Veon's staffers, Veon was under a lot of scrutiny in the 2006 elections requiring them to be more careful. Of course, this would not prevent the staff from performing campaign work at the expense of the taxpayers. ... According to [a Caucus employee], Foreman [said] that Veon's pay raise vote would cause greater public scrutiny of the Veon office, and therefore they all had to be careful to earn and use comp time³ so that a façade of propriety could be presented when the legislative employees were working out of the office on political campaigns. Presentment at 30.

Veon, Foreman and Cott could...direct...employees to "volunteer" for work on chosen political campaigns. These employees would have accumulated days or weeks of phony comp time hours, so they could spend time away from their desks and still be paid their legislative salaries. ... The underlying rationale was the following: for a candidate to hire ten, fifty, or a hundred campaign workers, for even a week, would be an expensive undertaking. But if those campaign workers could be paid by another entity, and put to work for days, weeks, or even months, then the ability of a candidate to campaign would not be limited by his campaign budget. In this case, the campaign workers were legislative employees and they would be paid their regular legislative salaries while they did campaign work. By implementing this system, Veon could make certain that the legislative employees in his office would continue to be available as political campaign workers at no cost to the political candidates. Thus, Veon had at his disposal a stockpile of political campaign workers, paid for by the taxpayers. Presentment at 31-32.

³ Compensatory time, or "comp time" was granted to employees by their supervisors for every hour they worked in addition to the required daily hours. Comp time hours could be accumulated, apparently without limit, to be used as paid time off at a later date. Presentment at 30.

NOMINATING PETITION CHALLENGES

[E]mployees and resources of the House Democrat Caucus historically and routinely were utilized to conduct petition challenges against candidates who were opponents of Caucus incumbents or the Democratic Party. Meetings with employees regarding petition challenges, and the participation of Caucus employees therein, were typically conducted by Brett Cott and Michael Manzo. At the meetings, the employees would receive instructions as to how to review petitions for improprieties. The employees would conduct reviews during regular working hours at their Caucus workplaces, utilizing their Caucus computers to research information on individuals whose names appeared as signators on the petitions, through the Constituent Tracking Service ("CTS"), a program which was designed and intended for legitimate legislative use, and which included voter registration information. The Caucus computers were further utilized to compile and transmit the information which would be used to challenge the signatures or petition pages. The Caucus employees were not required to, and did not, take leave for the time spent during their regular work hours on such endeavors. *The two most outstanding examples of misappropriation of taxpayer resources in petition challenges were found in the challenges to the candidacies of Ralph Nader, for President of the United States in 2004, and Carl Romanelli, for the United States Senate in 2006.* Presentment at 54-55 (emphasis added).

A. Nader Petition Challenge

It was generally assumed, in Democratic Party circles, that Nader's appearance on the ballot would be detrimental to Democratic Presidential Candidate John Kerry....[T]he Caucus quest to remove Nader from the ballot began before his petitions were even filed.... [A] veritable army of Caucus staffers was enlisted. The petition pages were divided among the staffers in the Capitol complex, the members of Veon's Beaver Falls District Office staff, and a law firm which was ultimately involved in filing the challenge. Manzo directed the day-to-day operation, with assistance from Jeff Foreman, and appointed a staffer who, along with Melissa Lewis from Veon's District Office, coordinated the dissemination of materials and information to the aforementioned law firm. Presentment at 55 (emphasis added).

As many as fifty Caucus staff members participated in the challenge effort, and contributed a staggering number of man-hours. As [one employee] stated...referring to his fellow staffers, "Everybody was working on this." It was virtually a Caucus-wide endeavor. Many of the Caucus employees spent an entire week on it. Melissa Lewis, along with two other members of Veon's District Office, even drove boxes of materials necessary for the challenge filing to Harrisburg, where they were delivered to the challenge attorney. Since the work was being done in Caucus offices, the tradition of not taking leave was, almost invariably, honored. None of the aforementioned

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supervisors who were directing the operation ever requested or instructed any of the staffers to take leave. Presentment at 56 (emphasis added).

Veon lauded the Nader challenge efforts and result in an October 13, 2004 email addressed to...[his] 22-member Caucus staff. In that email, Veon stated:

"FYI... great job by our staff! This would never ever have been successful without your work. You have given John Kerry an even better opportunity to win this state... one of the most 5 [sic] important states to win this year.

That is a very significant fact and significant contribution by each one of you to the Kerry for president campaign... you should take great pride in your efforts."

Jeff Foreman expressed similar sentiments in a November 3, 2004 email to Veon staffers, by stating: "...clearly the volunteer effort regarding the challenge to Nader was a critical piece of the Kerry victory in Pa., and our staff...was essential in that effort...". The Nader effort was further acknowledged, and rewarded, by Scott Brubaker, Manzo, Foreman, Brett Cott and Veon, as indicated in...emails regarding the campaign-related 2004 bonuses. Presentment at 56 (emphasis added).

Based on the evidence presented to us, we have been able to identify, by name, [36 staff employees and four supervisors] who were involved with the Nader challenge. This list is certainly not exhaustive.... As to the first twenty-nine listed individuals, their Nader efforts merited inclusion in the above-referenced 2004 campaign bonus list. Presentment at 56-58 (emphasis added).

B. Romanelli Petition Challenge

The Caucus effort to prevent Carl Romanelli from appearing on the ballot as an Independent candidate for United States Senator was disturbingly similar to the Nader effort, in scope, methodology, and misappropriation of taxpayer-funded resources. Presentment at 58.

Once again the goal was to enhance the electability of the Democratic nominee, Robert Casey, by winnowing from the Election Day field a challenger whose vote tally would likely come at the expense of the Democratic candidate. Presentment at 58.

Brett Cott assumed the laboring oar in organizing and orchestrating the operation. The call for "volunteers" was put out in advance, and anticipation, of the nomination filing. The response, as usual, was impressive. An initial meeting held in DeWeese's office drew as many as thirty Caucus staffers. At the meeting, over which Manzo presided, Cott gave the instructions on how to

review the petitions and obtain and compile the information to challenge the signatures. Cott also announced that it was very important to "leadership", that is, DeWeese and Veon, that Romanelli not appear on the ballot. The staffers were told "not to worry about leave", but to focus on getting the work on the petition pages done as soon as possible. Presentment at 58.

During the week of the challenge undertaking, there was a veritable parade of Caucus employees in and out of Veon's office, picking up and delivering petition work. Once again, Jeff Foreman assisted in directing the contribution of Veon's staff, which worked day in and day out on the petitions, while being paid by the taxpayers. Presentment at 58.

Cott also assumed responsibility for assuring that the Caucus work product was collected, assimilated and transmitted to the challenge attorneys. ... As in the Nader challenge, the Caucus effort succeeded. Romanelli was knocked off the ballot. Presentment at 59.

Analysis

The Grand Jury Presentment is the product of a thorough and extensive investigation that commenced in June 2007 and remains ongoing. Ex. B at 1. The Grand Jury's findings are based upon thousands of pages of documents and emails, interviews with hundreds of individuals, and sworn testimony from numerous witnesses, including current and former employees of the Pennsylvania House Democratic Caucus and agents from Attorney General Corbett's office. Ex. B at 1. The Presentment thus comprises a compelling body of evidence that directly supports two central allegations in the Complaint, first that Respondents specifically intended to benefit Respondent Kerry-Edwards 2004, Inc. by challenging the Nader-Camejo nomination papers, and second that Respondents made unlawful and unreported contributions to Respondent Kerry-Edwards 2004, Inc. in connection with such challenges. In addition, the Presentment indicates that certain Respondents and other parties may have committed knowing and willful violations of the Act and engaged in criminal misconduct that should be referred to the United States Department of Justice for further investigation.

Although the Grand Jury necessarily confined its investigation to conduct that violated Pennsylvania state law, its findings are relevant to the nature and purpose of Respondents' related conduct in other states, particularly because the law firms that filed Respondents' Pennsylvania challenge were retained by or received payment from the Respondents who orchestrated Respondents' nationwide effort to deny ballot access to the Nader-Camejo ticket. Complaint ¶¶ 163-70, 169 n.91, 286. Therefore, for example, the Grand Jury's finding that Respondents' Pennsylvania challenge was specifically intended to benefit Respondent Kerry-Edwards 2004, Inc. supports the inference that Respondents' related conduct in 17 other states was likewise intended to benefit Respondent Kerry-Edwards, 2004, Inc.

The Presentment Supports the Allegation that Respondents Intended to Benefit Kerry-Edwards 2004, Inc. By challenging the Nader-Camejo Nomination Papers.

The Complaint alleges that the purpose of Respondents' litigation challenging Nader-Camejo nomination papers in 18 states was "to help Democratic candidates John Kerry and John Edwards win the [2004 presidential] election by denying voters the choice of voting for a competing candidacy." Complaint at 2. The Presentment substantially confirms this allegation with respect to Respondents' Pennsylvania challenge. "The Caucus quest to remove Nader from the ballot began before his petitions were even filed," the Grand Jury found, because "it was generally assumed, in Democratic Party circles, that Nader's appearance on the ballot would be detrimental to Democratic Presidential Candidate John Kerry." Presentment at 55. Thus, the Grand Jury concluded that the goal of the challenge to the Nader-Camejo (and Romanelli) nomination papers was "to enhance the electability of the Democratic nominee." Presentment at 58.

In support of this conclusion, the Grand Jury quotes emails from Caucus leaders and supervisors to staff, including the following: "You have given John Kerry an even better opportunity to win this state" (former Minority Whip Veon); and "the challenge to Nader was a critical piece of the Kerry victory in Pa., and our staff...was essential in that effort" (former Veon Chief of Staff Foreman). Presentment at 56. Majority Leader Deweese and former Minority Whip Veon also issued a series of press releases before, during and after the election (enclosed as Exhibit C), which provide further confirmation that the individuals who prepared Respondents' challenge to the Nader-Camejo nomination papers specifically intended to benefit Respondent Kerry-Edwards 2004, Inc. For example, a press release issued on August 3, 2004 states, "In sensing an opportunity to help the presidential campaign of John Kerry, Pennsylvania House Democratic Leader Bill DeWeese and Whip Mike Veon are preparing to challenge the petitions submitted Monday by presidential candidate Ralph Nader." Ex. C at 4 (emphasis added).

The Presentment Supports the Allegation that Respondents Made Unlawful and Unreported Contributions to Respondent Kerry-Edwards 2004, Inc. in Connection with Their Challenges to the Nader-Camejo Nomination Papers.

The Complaint alleges that the value of the legal services rendered by Respondents' law firms, and anything else of value that Respondents expended in connection with their effort to deny the Nader-Camejo ticket ballot access in 18 states, constitutes a contribution to Respondent Kerry-Edwards 2004, Inc., which must be reported and which is subject to the Act's limitations and prohibitions. Complaint at 2-6; ¶ 308-12. Once again, the Presentment substantially confirms this allegation with respect to Respondents' Pennsylvania challenge. As former Minority Whip Veon wrote in an email to Caucus staffers, their work to prepare the challenge constitutes a "significant contribution by each one of you to the Kerry for president campaign." Presentment at 56 (emphasis added). Therefore, by rendering legal services free of charge to the parties who nominally filed the challenge, Respondent Reed Smith likewise made a significant contribution to Respondent Kerry-Edwards 2004, Inc. Complaint ¶ 310 n.172.

The Complaint alleges that Respondent Reed Smith unlawfully contributed legal services "worth hundreds of thousands of dollars" to Respondent Kerry-Edwards 2004, Inc. Complaint ¶ 287. In fact, this estimate is low. Respondent Efrom Grail, a Reed Smith partner in charge of the case, stated that the value of the legal services his firm "gave away" in connection with Respondents' challenge is \$1 million. See Thomas Fitzgerald, *Pa. Law Firm Duns Nader for Expenses*, THE PHILADELPHIA INQUIRER (July 14, 2007) (enclosed as "Exhibit D"). By Respondent Reed Smith's own admission, therefore, the value of the legal services that the firm unlawfully contributed to Respondent Kerry-Edwards 2004, Inc. – which does not include \$81,102.19 in litigation costs, firm resources, office space and anything else of value that the firm contributed to Respondents' challenge – was \$1 million.

The Presentment Indicates that Certain Respondents and Other Parties May Have Committed Knowing and Willful Violations of the Act and Engaged in Potentially Criminal Misconduct that Should Be Referred to the United States Department of Justice.

The Presentment refers only to an unnamed "law firm" that filed the challenge to the Nader-Camejo 2004 Pennsylvania nomination papers, Presentment at 55, but the record of the Pennsylvania proceedings, which lists no fewer than 17 Reed Smith attorneys as counsel to the nominal challengers, leaves little doubt that the "law firm" referenced in the Presentment is none other than Reed Smith, LLP.⁴ See *In re: Nomination Paper of Nader*, 860 A.2d 1 (Pa. 2004). The Presentment also makes clear that the attorneys who prepared Respondents' Pennsylvania challenge did so in direct cooperation with and in direct reliance upon as many as 50 employees of the Commonwealth of Pennsylvania, who were working at the direction of their supervisors, on taxpayer time, using taxpayer resources and receiving taxpayer-funded compensation for their work. Presentment at 54-58. Specifically, these attorneys divided their labor on the challenge with two teams of state employees; the attorneys coordinated the dissemination of materials relevant to the challenge with such state employees; the attorneys had two regular, designated contacts among such state employees; and at least one attorney received boxes of documents necessary for filing the challenge directly from such state employees. Presentment at 55-56. Thus, the Presentment indicates that the attorneys who filed Respondents' Pennsylvania challenge did so with the benefit of funds and resources misappropriated from the taxpayers of Pennsylvania.

The Presentment does not specifically indicate that the attorneys who filed Respondents' Pennsylvania challenge knew that it was prepared using funds and resources misappropriated from the taxpayers of Pennsylvania. Furthermore, as Attorney General Corbett noted in his press release, "A person charged with a crime is presumed innocent until proven guilty." Ex. B at 12. Nevertheless, the Presentment suggests that these attorneys knew or should have known that the 50 or more state employees who

⁴ Respondents Gregory Harvey of Philadelphia-based Montgomery, McCracken, Walker & Rhoads, Williams S. Gordon, formerly of Philadelphia-based Sheller, P.C. and Philadelphia-based solo practitioner Brian A. Gordon also represented the nominal objectors. See *In re: Nomination Paper of Nader*, 860 A.2d 1 (Pa. 2004).

helped them prepare such challenge were working on taxpayer time, using taxpayer resources and at taxpayer expense. The Grand Jury found that the attorneys prepared only a discrete portion of the challenge, and relied upon state employees to do the rest. Presentment at 55-56. The state employees worked on the challenge “during regular working hours at their Caucus workplaces” – as the attorneys must have known by virtue of their two regular, designated contacts among such employees, with whom they “coordinated the dissemination of materials and information” necessary to complete the challenge. Presentment at 54-55. Furthermore, although the Presentment indicates that Caucus leaders and supervisors adopted elaborate procedures to disguise their allegedly criminal misconduct, they did so only starting in 2006. Presentment at 30. In 2004, by contrast, when Respondents prepared and filed their challenge, “the culture was to use the state to pay for as much campaign work as possible,” Presentment at 28, and “there was no effort to...separate the hours spent on campaign work or to take time off from legislative pay for those hours.” Presentment at 30.

The challenge to the Romanelli nomination papers during the 2006 general election presumably was prepared after Caucus leaders and supervisors took precautionary measures to disguise their allegedly criminal misconduct from the public. Nevertheless, the Grand Jury found that the manner in which the challenge was prepared and filed “was disturbingly similar to the Nader effort, in scope, methodology, and misappropriation of taxpayer-funded resources.” Presentment at 58. Once again, “the goal was to enhance the electability of the Democratic nominee, Robert Casey, by winnowing from the Election Day field a challenger whose vote tally would likely come at the expense of the Democratic candidate.” Presentment at 58. Once again, state employees “worked day in and day out on the petitions, while being paid by the taxpayers.” Presentment at 58. And once again, the state employees’ “work product was collected, assimilated and transmitted to the challenge attorneys.” Therefore, even if the state employees took measures to ensure that “a façade of propriety” could be presented to the public when they were working on political campaigns, Presentment at 30, the attorneys working in cooperation with such state employees knew or should have known that the state employees were working on taxpayer time, using taxpayer resources and at taxpayer expense.

Two additional factors relating to the Romanelli petition challenge require further investigation. First, although the Presentment does not identify the Romanelli challenge attorneys by name, the record of the Pennsylvania proceedings indicates that a team of attorneys from Thorp, Reed & Armstrong, LLP, headed by Clifford B. Levine, represented the nominal challengers. *See In re Nomination Papers of Rogers*, 913 A.2d 298 (Pa. Cmwlth, 2006) and 914 A.2d 457 (Pa. Cmwlth, 2006).⁵ Attorney Levine is identified on the Thorp, Reed & Armstrong website as “Statewide Election Law Co-Coordinator, Bob Casey for Senate (2006)”.⁶ *See* Clifford B. Levine Bio (enclosed as

⁵ Reports filed with the Commission indicate that the Pennsylvania Democratic Party paid Thorp, Reed & Armstrong \$341,546.00 in 2006, \$68,000 of which was designated as “legal fees for court petition challenge.”

⁶ Attorney Levine’s bio indicates that he also served as “Deputy State Counsel (Pennsylvania), Kerry-Edwards, Inc. (2004)”.

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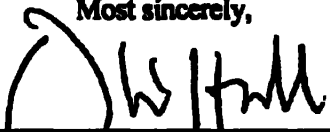
"Exhibit E"). As lead attorney in the Romanelli challenge, therefore, Attorney Levine and his team worked on the challenge in cooperation with state employees who allegedly misappropriated taxpayer funds and resources for the benefit of candidate Robert Casey, while Attorney Levine simultaneously served as Election Law Co-Coordinator for Mr. Casey's political committee, Bob Casey for Senate, Inc.

Second, Mr. Casey served as Treasurer of the Commonwealth of Pennsylvania from November 2004 through the end of 2006, when he was elected to the United States Senate. As Treasurer, Mr. Casey therefore allowed taxpayer-funded bonus checks to issue from the Pennsylvania Treasury to compensate state employees for their work on the Romanelli petition challenge, when the primary intended beneficiary of such challenge was Mr. Casey himself. The Presentment does not indicate whether Mr. Casey knew of the bonus payments or their purpose. The Grand Jury found, however, that the bonus payments in 2006 "far exceeded the prior years," and were "also unique in that bonuses for campaign work were issued twice," as part of an expanding program to encourage "volunteers" to work on political campaigns in the 2006 general election. Presentment at 16. In 2004, bonus payments for such work totaled \$188,800; in 2005, bonus payments for such work totaled \$167,500; in 2006, "secret bonuses" for campaign work spiked to \$1,285,250. Presentment at 8, 14, 22. The Presentment therefore indicates that Mr. Casey's successful 2006 senatorial campaign benefited from a substantial infusion of cash, paid from the Pennsylvania Treasury while Mr. Casey was Treasurer, to state employees who were doing political campaign work on his behalf and in cooperation with his Election Law Co-Coordinator, Thorp, Reed & Armstrong Attorney Clifford B. Levine. Presentment at 22, 31-32, 58-59.

Because the Presentment indicates that the attorneys who prepared and filed Respondents' challenge to the Nader-Camejo 2004 Pennsylvania nomination papers knew or should have known that they were working in cooperation with as many as 50 state employees who misappropriated taxpayer funds and resources to finance the challenge, and because these parties prepared and filed such challenge with the specific intent to benefit Respondent Kerry-Edwards 2004, Inc., the Commission should investigate whether the Respondents named herein and in the Complaint, or any other parties, knowingly and willfully violated the Act by failing to report their contributions and expenditures in connection with such challenge. 2 U.S.C. § 434. The Commission should also conduct an investigation to determine whether such parties committed similar violations of Section 434 or any other provisions of the Act in connection with the Romanelli petition challenge. In addition, because the Grand Jury's findings indicate that \$1,641,550 was misappropriated from the Pennsylvania Treasury for political campaign purposes between 2004 and 2006, and that substantial sums in the form of public employee man-hours and other taxpayer resources were also misappropriated for such purposes, most of which was used to influence federal elections but none of which was reported as required under the Act, the Commission should refer this matter to the United States Department of Justice for further investigation to determine whether certain named Respondents and/or other parties knowingly and willfully violated the Act or committed any other criminal violations of federal law.

Should you wish to contact Mr. Nader, or if you would like further information regarding the foregoing matter, please do not hesitate to contact me at (617) 953-0161 or by email at oliverbhall@gmail.com. Thank you for your attention to this matter.

Most sincerely,



Complainant Ralph Nader, by
Oliver B. Hall
1835 16th Street N.W.
Washington, D.C. 20009
617-953-0161

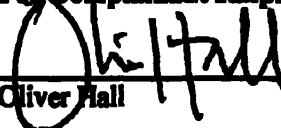
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Verification

The Complainant listed below hereby verifies that the statements made in the attached Complaint are, upon his information and belief, true.

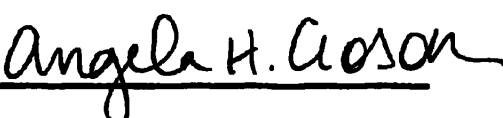
Sworn to pursuant to 18 U.S.C. § 1001.

For Complainant Ralph Nader



Oliver Hall

Sworn to and subscribed before me
this ~~24~~²⁵ day of September, 2008



Notary Public

Angela H. Croson
Notary Public, District of Columbia
My Commission Expires 3-31-2009